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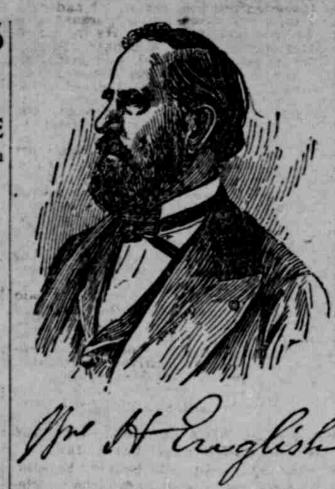
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WHERE VOTE IS CLOSE

SUPREME COURT'S IMPORTANT RUL-ING AS TO ELECTION COSTESTS.

Result Will Not Be Set Aside Where Deducting a Vote Will Make a Tie.

Samuel W. Helvie, Republican, received stamped by the poll clerks on the request of the voter, who said he could read Enggiven in the statute, that he was physiargued by the attorneys for Helvie, the case, held that the words of the statute to show the election officers in what cases the poll clerks might perform this duty. case a man without hands should enter the voting place it would not be deemed necessary that he should make a public declaration that he was unable to mark his ticket; board may instruct the poll clerks to assist

each Republican's name, the court makes

Awaraed Mighest Honors-World's Pair.



MOST PERFECT MADE A pure Grape Cream of Tartar Powder. Free from Ammonia, Alum or any other adulterant 40 YEARS THE STANDARD.

no ruling, but intimates that such a ballot should be counted. It was contended that a ballot stamped in such a manner was distinguishable from others and, therefore, could not be counted. After some argument to show that the ballot should have been counted, the court says:
"Assuming, without deciding that both methods of voting are authorized by the statute and that the vote here in question was wrongfully rejected and should have been counted for Helvie by the Circuit Court as it was counted, thus producing a tie between the contestee, the appellee, and Helvie, the only two candidates for the office, there is another reason why the con-"One section of the statute concerning

aside the election of any person, unless irregularity or malco elected, when he had no. received the highest number of legal votes; nor shall any election be set aside for illegal votes, unless the number thereof given to the contestee ber of his legal votes below the number of legal votes given to some other person for

puoted that the apppellant relies on. But the appellee contends it is not applicable the result was produced by adding a vote to the opposing candidate which the elec-tion board had rejected and refused to court for him and which made the tie.

ting aside of an election in the cases to ing a tie or in showing that some other person has an equal number of legal votes

"This policy is not only wholesome, but is founded on the best of reasons. When highest or an equal number of votes it of such small interest to the public which of them shall fill the office, that anthe right of either to depend upon so slight a thing as chance, the toss of a copper, the drawing of cuts or lots, or another act which the right to the office is made depend upon what happens without uman design or forethought, chance, accient, hazard. * * It therefore seems clear that the provision is founded on sound

plies to the present case. There can be no doubt that the same policy calls for the application of the rule to a case fall-ing within the literal words of the provision, applies equally to the facts of the present case.
"There can be no good reason suggested why the Legislature should forbid the set-

ting aside of an election on a contest for illegal votes unless the number thereof given to the contestee, if taken from him would reduce the number of his legal votes below the number of legal votes given to some other person for the same office, and in the same provision permit the contestor person has an equal number of votes, which result is produced by restoring to that person a vote or votes which the elec-tion board had rejected and refused to count for him because they erroneously supposed it was an illegal vote. * * "The judgment is reversed with instructions to restate the conclusions of law in accordance with this opinion and enter judgment accordingly."

THE BROAD RIPPLE PRIVILEGES.

man's Lease Forfeited. Lewis C. Walker, attorney for the Indianbate Commissioner O'Bryan, asking that the lease which that company executed to 17594. Parmailee vs. Kregelo. Marion S. State—paying in st. 10.10. Emily J. Smerman, April 1, 1895, be forfeited. C. Affirmed. Jordan, J.—It is not the for schools, \$4,356.73.

The company, it is alleged, leased Broad Ripple Park to Mrs. Sherman, with the undertsanding that she was to remove certain to perform her part of the contract as to the removal of the buildings, that she has not paid the rent as the contract provided, and that she has made an assignment and

From Than at Any Other Store.

Sentence Passed on Counterfeiters. Judge Baker yesterday passed sentence upon the counterfeiters who have recently been convicted in the federal court. Tony penitentiary and was fined \$100; George Brown got off with three years and \$50 fine; Robert Pennington received the same sentence. Peter Hoffman escaped with six Otto Sines, convicted of mail robberv, was sentenced to one year and a day in prison.

One More Iron Hall Claim.

A law firm of Binghamton, N. Y., has forwarded to Receiver Failey, of the Iron due for services rendered in the Iron Hall litigation. Harold Taylor, in presenting the claim to Judge McMaster, said the New York attorneys had assisted A. ... Harris in Iron Hall work. Judge McMaster had the impression that this claim was settled

McCorkle Case Compromised. The suit of McCorkle against the Vandabefore a jury Wednesday, and the indica-tions were that it would be bitterly fought on both sides. At the opening of court yesterday morning Judge Brown was notified

that a compromise had been reached and the services of the court would not be fur-The Right to Deliver Books. The Supreme Court, in a decision written

by Judge Hackney, yesterday held that an agent has a right to deliver personally any goods sold in any manner, regardless of local laws. A man was arrested in Huntington for delivering books that had been previously sold by another agent and was acquitted by the local courts. The opinion sustains the lower court

Pauline Gehring Fined. Pauline Gehring, charged with assault and battery and profanity, pleaded guilty to the latter charge in the Criminal Court yesterday and was fined \$1 and costs. The state nollied the charge of assault and battery. Both cases came up on an appeal from the Police Court.

THE COURT RECORD.

Delaware C. C. Reversed. Howard, J.-When a right of way is given to a railroad company for the purpose of a switch to cannot afterward turn the right of way into use for a main line against the consent of the grantors, and such a contract is binding on the part of the successors of

Affirmed. Monks, J.-1. Affidavits n support of a cause for a new trial should be in the bill of exceptions. 2. This court will not reverse a judgment on the weight of evidence

17693. Montgomery vs. Oldham. Fayette C. Reversed. McCabe, J.-1. The provision in the statute requiring a voter. whereby he cannot vote unaided, to make t known on his entering the election room is directory, and not mandatory. 2. The statute was intended to prohibit the con-The test of an election or the setting aside of an election if it would simply result in finding an equal number of votes cast for

and thereby pass upon the conflicts therein, and if there is any evidence in the recbuildings from Fairview to Broad Ripple.

By the provisions of the contract Mrs.

Sherman was to pay annually \$1,250 in advance. The petition alleges that she falled.

Huntington C. C. Affirmed. Hackney, C. J. will not be reversed on that alone.

17691. City of Huntington vs. Mahan.
Huntington C. C. Affirmed. Hackney, C. J. -if goods, subsequent to their sale, come into this State and do not become mingled with the mass of property within this State the transaction is governed by the

> and not accessible to the pleader may be dispensed with, but this may not be done without showing that such facts are so eculiarly within the knowledge of the opposite party and not accessible to the

> 16715. B. O. & C. R'y Co. vs. Paul. Steu-ben C. C. Petition for rehearing overruled. 17578. Guarantee Co. vs. Cox. Madison C. . Twenty days given in which to file as-

Appellate Court. 1561. Johnson vs. Ballard. Orange C. C. Affirmed. Gavin, C. J.—when the error assigned is the overruling of a motion for a new trial based upon the sufficiency of the evidence all the evidence should be properly brought into the record. 1861. Keaton vs. Snider. Shelby C. C. Affirmed. Davis, J.-Where the breaking of he close is the gist of the action the trespass to the real estate is the initial wrong. and the destruction of the growing crops is dependent upon it for jurisdiction. 1608. C. & S. E. R'y Co. vs. Wheeler. Hamilton C. C. Reversed. Loz, J.-1. The statutory action for injuries done to animals which have entered upon the tracks of a railroad at a point where it is not fenced is local, and should be brought in the county where the injury was done, and such must be alleged and proved. 2. motion in arrest of judgment need not be in writing, nor need it point out the grounds therefor, nor need it be brought into the record by bill of exceptions. Morrow vs. Geeting. Howard C. Appellee petitions for rehearing. Hoagland vs. State ex rel. Schrei-Jennings C. C. Judgment ordered 1674. Insurance Co. vs. Stewart, Elkhart

Petition to amend transcript over-Superior Court. Room 1-John L. McMaster, Judge.

Arthur Lee vs. Josephine R. Nichols; treet lien. Judgment for plaintiff for Heinrich Lull vs. Indianapolis Chair Manufacturing Company; damages. Jury out. Room 3-Pliny W. Bartholomew, Judge. Jacob Frankle vs. George Boeckling; ac-Equitable Saving and Loan Association vs. Luella Inck et al.; foreclosure; complaint of Nicholas McCarty. Dismissed and Nettie McCann vs. Wm. H. McCann; di-

vorce. Evidence partly heard and case continued to Dec. 13. Michigan Lumber Company vs. Emma Doebber; mechanic's lien. Finding and judgment for Schmidt & Gunn vs. defendant Emma Doebber for \$25.50. Finding and judgment in favor of Geo. Magenis vs. Emma Doebber for \$42.70. Room 2-Lawson M. Harvey, Judge.

Robert Ross vs. Harvey L. Clayton; note. On trial by court. New Suits Filed William H. Vehling vs. Cart H. Mathias; suit to foreclose mechanics lien. Superior Albert A. Sprague et al. vs. Henry Magel; suit on account. Circuit Court. Robert L. Turner vs. Walker Newby; suit to foreclose mechanic's lien. Superior

Court, Room 2. Martin County Reports. Martin county settled yesterday with the State-paying in \$7,770.16, and drawing out ENTIRELY NEW PLANT

CENTRAL UNION PROMISES THIS IF IT GETS A FRANCHISE.

o Further Offer for a Franchise Just Yet-Proposed Improvements Detailed.

Attorney R. O. Hawkins and Messrs. A. A. Thomas, I. J. Beach and M. J. Carney, representing the Central Union Telephone Company, called on the Board of Works yesterday morning to submit a proposition to the city relative to the granting of a franchise. The proposition was probably hurried by a letter which the board sent to the company asking if the telephone wires were to be put under ground as provided by the wire ordinance. The latter leaves the company without a franchise, as all contracts and agreements between the city and the company are repealed by it. Before the company puts the wires under ground it wants a franchise. Mr. Thomas acted as spokesman for the company's delegation, and in the beginning of the conference he said:

"We come to say that since we were here the underground ordinance has been adopted, and we suppose it is the policy of the city to enforce it. It is our intention to be ready to comply with it; that we will, within the central mile square, bounded by North, South, East and West streets, remove all our poles from the streets and place underground conduits, except in the alleys, where it will be necessary to place and maintain poles for local distribution of wires, these wires not to cross the streets; that outside of that district we will put all our lines in stanch, first-class condition to your approval, and maintain condition to your approval, and maintain them that way in the city limits; that we will agree to take telephone exchange service to every citizen in Indianapolis, wherever he is located, and not to the central district or selected portion only; that we are ready to agree that work shall begin district or selected portion only; that we are ready to agree that work shall begin in sixty days from the date of the making of an agreement authorizing it, and if this agreement is not made the bulk of this work and the underground work shall be done next season, and that all the rest of the work shall be begun without delay and prosecuted without being stopped before it is finished. We think that nobody beforehand can give the detail of just where these conduits can go nor how they shall be built and placed. When you come to put be built and placed. When you come to put is held the property belonging to the Cath-them in the ground you find the space oc- olics of the diocese. Contractors never en-

cupied to a degree that will surprise you, which changes the location and modifies the original plan. The locations selected can only be marked out as the attempt progresses. The only safe way for you and learned that the bishop had been sued, and the original plan. The locations selected can only be marked out as the attempt progresses. The only safe way for you and us, then, is to agree on this subject as we have done in other cities—at Columbus and Toledo, O.—that is, to agree that before any underground work is done or begun, and before any aerial structure is put up, plans, maps and specifications particularly locating and describing the same shall be locating and locating locating and locating filed with you and receive your approval in writing, and if you approve a plan sub-mitted which we find we cannot carry out we will then agree to a modification, but by that simple requirement you hold in your power all necessary authority. These conduits must have manholes, with a vault beneath them in which cables can be taken out and leave free access to them, and in many places these vaults must provide for drainage into the sewers. They must be kept dry, and every wire in use underground must be kept hermetically sealed. We regard the use of sewers for such underground work as nonsense; the only use to which they can be put is to afford drainage from the vaults in the system. We would have to cut into the sewers to get in and to get out, and attach the cables on the sides. Such an arrangement I don't believe anybody would ever permit, if he knew what it meant. You understand that such a thing as putting condults in sewers has never been permitted in any city in the United States. We hear of putting cables in the Paris sewers, but the Paris sewers carry no sewage. All the sewers in Paris are military routes built for Napoleon to connect his courts"

connect his courts." Mr. Thomas said that the company real-ized that great inconvenience resulted from loading poles with wires, and the company believed that the number of cross arms should be limited to six. His remarks concerning the poles referred to the district outside the mile square.

CONDUITS AND NEW APPARATUS. There was some discussion concerning the laying of the conduits. The company has the intention of putting the conduits in the alleys so far as possible. Probably three or four down-town streets may have to be used, because no more conduits can be put down in neighboring alleys. Where there is no obstruction the average depth of a conduit is two feet, but in some places they have to be put down much deeper. Thomas referred to the progress made in the manufacture of telephones, and he said Indianapolis will be given the best. Speak-

ing on this subject he said:
"Under reasonable encouragement the telephone company stands ready to practically dispense with everything it has got here in the way of apparatus—reconstructing its plant entirely except as to some new structures recently put up, and introducing an entirely new and improved service—service superior to anything that you have ever had, and superior to everything that exists to-day. This, however, involves a great exa small part of the expense. In order to stated yesterday that the tendency should

do this it needs encouragement.
"The improved telephone is automatic in its action. The subscriber takes the receiver and puts it to his ear. The taking of interstate-commerce law.

17167. Brashear vs. Madison City. Jefferson C. C. Petition for rehearing overruled. Hackney, C. J.—The question of the advisability of a city buying a fire alarm is to be determined by the Common Council, and not by a judicial tribunal. 2. Facts put up the 'drop,' which makes it quicker."

The taking of the receiver from the hook lights an incommendation, which remains lighted until the operator puts the plugs in. When the operator is through talking he hangs the receiver up.

Under this method the operator does not put up the 'drop,' which makes it quicker."

Prove construction and permanent system, which will include the erection by us of a fireproof building especially adapted to our

> Continuing, Mr. Thomas said: "Under the contract now in force in this city, made with our company in 1887 by the Metropoli maintain wires and equip them for telethis contract the city pays \$390 per annum with the police as to what they want. is not known just how many stations will A Gamewell station would cost the city from \$150 to \$175. We think seventy stations would be ample for the needs of the cit the future as well as the present, and have made an allowance for double that number. The city has for its use cighteen tel ephones and a switch board at the central office. The city agreed to pay \$1,140 per We have given them without pay-Colonel Downing, president of the boar asked that a written proposition, contain that the offer of the company

amounted to \$19,000, not including the use of the condults and poles, which are of-fered. All service, telephone and telegraphwas promised the city free of cost. Col. Downing asked the company to state it term of years the franchise is expected to run and what will be offered the citizens. The matter of rates was mentioned, but the representatives of the company did not state what rates will be offered the public. On this question Mr. Thomas said: "We will give telephone rates as cheap here as anywhere in the United States. We are not able to make any material reduction now under the present conditions We have made something of a reduction last April, and the only particular change we can see in sight for us is to be able to reduce the resident rates by the introduction of an invention which is just at hard-enabling two, three, four or five subscribers the use of one line. This would materially reduce the rate. The conference ended without any fran-chise being granted, but the board prom-ised to consider any written proposition which may be offered.

PARKER AND THE CONTRACTORS. They Object to Him Looking After Their Collections,

Contractors are complaining of the ac-

tions of Bart Parker, clerk of the Board

of Safety, who has taken a very active interest in the collection of improvement assessments. He claims that he has worked solely in the interest of his father, E. A Parker, who is a collector of these assessments. Several of the contractors state, seems that most of the contractors who have placed claims in the hands of the

For Rheumatism For Lung Affections For Convalescence after La Grippe

For General Debility

Wherever and whenever an absolutely pure stimulant is needed, the physician may confidently prescribe the

R. Cummins & Co. Tabiskey

"Old Process"
Hand-flade
Commins & Co. Tabiskey

before suits were filed.

Julius Keller is another contractor who

expresses surprise that suits for work done by him have been filed so soon after the expiration of the paying time. Mr. Keller does not know the elder Mr. Parker—has never seen him. He granted to Bart Par-

never seen him. He granted to Bart Parker, the son, the privilege of sending out cards, not knowing the privilege of forcing collections was expected in return. Philip Zapf is a friend of Mr. Keller, and a few days ago all friendship ceased for a while, for Mr. Zapf learned that he had been sued. Mr. Keller was very indignant, for he would not have entered suit against his friend, after having told him he could take his time about paying the assessment. Dur-

his time about paying the assessment. During the last few days a great many suits have been entered against the property owners by the elder Mr. Parker, and several of the contractors claim that the action

eral of the contractors claim that the action was not advised by them.

Collectors of the assessments are complaining of the interest which Bart Parker has taken in the business. The clerk of the Board of Works did not identify himself with the business during the Republican administration, but no sooner was Mr. Taggart elected than Mr. Parker, the elder, undertook the business, and Mr. Parker, the junior, directed to him all the business possible. Other collectors claim that several contractors have given the Parkers their business because of the position the younger Parker holds with the board.

Bart Parker claims that he has no finan-

"Sec. 7. No member of the Council, nor

any other officer, clerk or deputy, or em-ploye of such city shall, either directly or indirectly, be a party to, or in any manner

interested in any contract or agreement, either with such city, for any matter, cause or thing, or by which any liability or fa-

MR. JOHNSON ON TAX LEVY.

ing Instead of Increasing.

Controller Johnson does not favor an

increase of the tax levy in order to meet

be toward a reduction of the levy instead

"Is it possible to make all the expendi-

"To do all that is proposed is impossible," said Mr. Johnson, "but are all of the im-

the fire department, but I believe that

considered it will be found that we have not such a dreadfully bad department

We possibly need a water tower, one nev

engine and perhaps a new house, but migh

which would not draw from the treasury

this is a city. Other cities have suffered losses and Indianapolis has suffered no more than others. We want a well-equip

ped department to be sure, but I canno

see that a vast sum is necessary to accom

"How can any improvements be made with the indebtedness of the city in the

indebtedness does not quite reach the con-stitutional limit. I anticipate that \$100,000

will put the city in a very fair condition.

I guess that improvement at the City Hospital is an absolute necessity. In order to do some of the things proposed, the bonded

debt can be increased."
"What relief is the city to expect from

to pay off the bonds as they fall due. If the tax levy be increased let it be with that

object in view. The levy is not fixed, how-ever, until next fall and in the meanwhile

on each hundred dollars levied it would provide for the payment of the \$110,000 of bonds which fall due in 1809, while a levy

of 2 cents for the sinking fund, would provide for the payment of those falling due in 1909 and 1910. We are using all of our

income each year and making no pro-vision for the debt which we will have to

An Infant Strangled.

in Henry Coburn's lumber yard, Georgia

street and Kentucky avenue, about noon

And the most distressing forms of itching, burning, bleeding, and scaly skin, scalp, and blood humours, and points to a speedy cure when all other remedies and the best physicians fail.

SPEEDY CURE TREATMENT. - Warm baths, with

CUTICURA SOAP, gentle applications of CUTICURA (ointment), and mild doses of CUTICURA RESOLVENT (the new blood purifier).

Instantly Relieves

The body of a dead baby girl was found

"We have a margin, that is our bonded

plish this.'

constant debt?

pay some day."

tures now proposed with the appropriations

for the coming year," was asked yester-

The Controller Believes in Decreas

This whiskey is advertised in the leading medical jour-nals and is approved by the profession. Each bottle bears the certificate of its purity, given by Pro. J. N. Hurty, Chemist, Indianapolis.

A. KIEFER DRUG COMPANY, Indianapolis

SOLD ONLY BY DRUGGISTS.

AMUSEMENTS.

TOMLINSON HALL

SUNDAY, DEC. 15, 8 P. M.—An Address On

"THE COMING OF OUR LORD"

The Solution of Troubles in Church and in Society. By JAMES B. DAVENPORT, Evangelist in the Catholic Apostolic Church.

Admission Free. All Invited. elder Mr. Parker did so at Bart Parker's request. The latter, so they say, simply asked for the privilege of sending out the notifications of assessments with collecting privileges that might follow.

William Bossert, who has done extensive improvement work the last season, was surprised to learn a few days ago that a number of property owners against whom he

By Sir Augustus Harris's London Opera Co., under management of Mr. Augustin Daly.

PRICES—Night: Orchestra and dress circle, \$1; ororchestra circle, \$1.50; balcony (two rows). T5c; balance of balcony, 50c; gallery, 25c. Popular Children's
Matinee: Balcony, 25c; orchestra and dress circle, 50c;
orchestra circle, 15c. Seats at Pembroke Arcade. GRAND - TO-NIGHT

C. B. Jefferson, Klaw and Erlanger's

'Country Circus' 3 Great Shows in One. Play-Pageant-Circus PRICES—Night: Orchestra and side boves, \$1; dress circle, 75c; balcony, 50c; gailery, 25c. Matinee: Lower floor, 50c; balcony, 25c. Scats at Pembroke Arcade.

PARK PRICES, 10c, 20c, 30c. This Afternoon and To-Night.

The great Irish comedy drama, "KILLARNEY"

Virginia Johnson, Barry O'Neil, and a good company, Monday-"THE MIDNIGHT SPECIAL." EVERYBODY GOES TO THE PARK. SEATS AT THE PEMBROKE,

EMPIRE THEATER ONE WEEK TO-NIGHT at 8, 15c-25c-50c

Sam and Kitty Morton, Carr and Jordan, Buntle and Ruddy, Ward and Brown, Brannan and Daly, Dot Davenport, Bros Sexton, Gracey and Burnett, Non-

Friday night-Amateurs.

Next-NICK ROBERTS'S "HUMPTY-DUMPTY." yesterday. It had been placed under a lumber pile. The body was entirely nude, and from the purple lips, staring eyes and livid face, the doctors thought the little one had been strangled. It had light hair and blue eyes and from appearances it must have been placed in the lumber pile soon after birth. Coroner Castor examined several witnesses, but nothing was learned as to the child's parentage or the manner of its

Parker holds with the board.

Bart Parker claims that he has no financial interest in the collections made by his father, but he acknowledges a personal interest in seeing that his father gets collections to make. He acknowledges asking contractors for collections. Whether this is a violation of the spirit if not the letter of the charter may be judged by reading Section 7: the child's parentage or the manner of its "Mrs. Winslow's Soothing Syrup" Has been used over fifty years by millions of mothers for their children while teethof mothers for their children while teething with perfect success. It soothes the child, softens the gums, allays pain, cures wind colic, regulates the bowels, and is the best remedy for diarrhea, whether arising from teething or other causes. For sale by druggists in every part of the world. Be sure and ask for Mrs. Winslow's Soothing Syrup. 25c a bottle. debtedness is in any way or manner created or passed upon, authorized or approved by said Council, or either of them, or by any officer, board, clerk, deputy or employe of such city.

Thousands of injunctions, The cold-catching community, thousands of them, are serving peremptory injunctions on their coughs and catarrhs, in the shape of daily and nightly doses of Hale's Honey of Hore-hound and Tar. The paroxysms are silenced in forty-eight hours. Sold by all druggists. Pike's Toothache Drops cure in

in the cold. Stay by the fire. Keep the windows closed. Result-you are thin, pale, weak and defenceless against disease. Get a liberal supply of oxygen by breathing the pure outdoor air and take

of Cod-liver Oil, with hypophosphites. Cod-liver oil will nourish the tissues and bring them up to their full activity. The hypophosphites will strengthen the nervous system and promote mental vigor.

To expect Santa Claus to put anything in your stocking, but you can get a big amount of satisfaction for yourself if you will buy :: :: :: :: :: Wilkie Collins'

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